

**County Of San Diego**  
**Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

**Key Words: privacy, authorization, agree, object**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSa-L-13**  
**PAGE: 1 of 16**  
**DATE: July 27, 2007**

**REFERENCE:** Federal Privacy Regulations, 45 C.F.R. Subtitle A, Subchapter C, Parts 160 and 164.

---

**PURPOSE:** To establish a policy on when it is required to use or disclose an individual's (patient's/resident's/client's) protected health information (PHI) without the written authorization of the individual or the opportunity for the individual to agree or object. The following areas are covered in this policy:

1. Uses and Disclosures Required by Law
2. Uses and Disclosures for Public Health Activities
3. Disclosures About Victims of Abuse, Neglect or Domestic Violence
4. Uses and Disclosures for Health Oversight Activities
5. Disclosures for Judicial and Administrative Proceedings
6. Disclosures for Law Enforcement Purposes
7. Uses and Disclosures About Decedents
8. Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation Purposes
9. Uses and Disclosures for Research Purposes
10. Uses and Disclosures to Avert a Serious Threat to Health or Safety
11. Uses and Disclosure for Specialized Government Functions
12. Disclosures for Workers' Compensation

**BACKGROUND:** County agencies designated, as covered components must comply with privacy regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). They must also comply with California laws and regulations pertaining to the use and disclosure of individually identifiable health information, unless such state laws and regulations are preempted by HIPAA.

HIPAA's privacy regulations outline many detailed requirements protecting the confidentiality of health information and providing individuals significant rights with respect to their health information. Compliance with these regulations is addressed in a series of County policies and procedures.

**DEFINITIONS**

*Note: The definitions below are in compliance with the HIPAA and the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule).*

***Abuse, Neglect, or Domestic Violence:*** The willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm or pain or mental anguish, or deprivation by an individual including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.

***Correctional Institution:*** Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under

**County Of San Diego**  
**Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSa-L-13**  
**PAGE: 2 of 16**  
**DATE: July 27, 2007**

---

contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

*Health Oversight Activities:* The watchful care or management of health care systems and government health benefit programs.

*Individually Identifiable Health Information:* Information that identifies an individual (or could reasonably be used to identify an individual) that:

- Is created or received by the County;
- Relates to the past, present, or future physical or mental health or condition of an individual;
- Relates to the provision of health care to an individual; or
- Relates to the past, present, or future payment for the provision of health care to an individual.

This includes demographic information such as name, address, date of birth, sex, and race collected from an individual.

*Protected Health Information (PHI):* Individually identifiable health information that is transmitted or maintained by electronic or any other medium. PHI does not include educational records of students maintained by federally funded educational agencies or institutions or persons acting for these agencies or institutions. PHI also does not include records of (1) students who are 18 years or older or are attending post-secondary educational institutions, (2) maintained by a physical or mental health care provider, (3) that are made, maintained, or used only in connection with the treatment of the student, and (4) that are not available to anyone, except a health care provider or appropriate professional reviewing the record as designated by the student.

*Public Health Authority:* An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

*Public Health Activities:* Activities for the purpose of preventing or controlling disease, injury, or disability. Activities include reporting disease/injury, births, deaths, public health surveillance, public health investigations, and public health information.

**County Of San Diego**  
**Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSa-L-13**  
**PAGE: 3 of 16**  
**DATE: July 27, 2007**

**POLICY:** In compliance with state and federal laws and regulations, the County may use or disclose PHI without the written authorization of the individual, as described in Policy HHSa-L-9, Authorization for Use & Disclosure of Protected Health Information, or the opportunity of the individual to agree or object as described in Policy HHSa-L-13, and Facility Directories in Policy HHSa-L-11, Disclosure of Information to Family Members & Friends of a Patient, in the situations covered by this policy, subject to the applicable requirements of this policy. When the County is required by this policy to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the County's information and the individual's agreement may be given orally.

**PROCEDURES:**

1. Uses and Disclosures Required by Law

The County may use or disclose PHI to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. Categories of disclosures required by law for which an authorization or opportunity to agree or object is not required are limited to disclosures about victims of abuse, neglect or domestic violence, disclosures for health oversight activities and disclosures for law enforcement purposes. The requirements for those disclosures are set forth in this policy and procedure.

2. Uses and Disclosures for Public Health Activities

a. Permitted Disclosures

The County may disclose PHI for the public health activities and purposes described in this procedure to:

- i. A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;
- ii. A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;
- iii. A person subject to the jurisdiction of the Food and Drug Administration:
  - To report adverse events (or similar reports with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations if the disclosure is made to

**County Of San Diego**  
**Health and Human Services Agency (HHSa)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSa-L-13**  
**PAGE: 4 of 16**  
**DATE: July 27, 2007**

- 
- the person required or directed to report such information to the Food and Drug Administration;
  - To track products if the disclosure is made to a person required or directed by the Food and Drug Administration to track the product;
  - To enable product recalls, repairs, or replacement (including locating and notifying individuals who have received products of product recalls, withdrawals, or other problems); or
  - To conduct post-marketing surveillance to comply with requirements or at the direction for the Food and Drug Administration;
  - iv. A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition as required by law; or
  - v. An employer, about an individual who is a member of the workforce of the employer, if:
    - The County of San Diego provides health care to the individual:
      - o To conduct an evaluation relating to medical surveillance of the workplace; or
      - o To evaluate whether the individual has a work-related illness or injury;
    - The disclosed PHI consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;
    - The employer needs such findings in order to comply regarding illness or injury or workplace-related medical surveillance; and
    - The County of San Diego provides written notice to the individual that PHI was disclosed to the employer:
      - o By giving a copy of the notice to the individual at the time the health care is provided; or
      - o If the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.
  - b. Permitted Uses

If the covered component of the County is also a public health authority, the covered component is permitted to use PHI in all cases in which it is permitted to disclose such information for public health activities as required by law.
  - c. County health care providers that are subject to compliance with the Privacy Rule will report public health activities, as required by local and state law.
  - d. Designated individuals within each facility, in accordance with the facility's operating policies, will make these reports. All reports that identify individual

**County Of San Diego  
Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13  
PAGE: 5 of 16  
DATE: July 27, 2007**

patients/clients/residents will be tracked for inclusion in an accounting of disclosures, if requested by the individual or his/her legal representative.

**3. Disclosures About Victims of Abuse, Neglect or Domestic Violence**

- a. The County may be required or allowed by law to disclose PHI about an individual whom the County reasonably believes to be a child or adult victim of abuse, neglect or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence. The County may disclose the PHI as follows:
  - i. To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;
  - ii. If the individual agrees to the disclosure: or
  - iii. To the extent the disclosure is expressly authorized by statute or regulation and:
    - The County, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or potential victims; or
    - If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.
- b. Where the County makes a disclosure of PHI about an individual whom the County reasonably believes to be a child or adult victim of abuse, neglect or domestic violence to a government authority, the County must promptly inform the victim that such a report has been or will be made, except if:
  - i. The County in the exercise of professional judgment, believes that informing the individual would place the individual at risk of serious harm; or
  - ii. The County would be informing a person who is responsible for the victim and believes the person is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interest of the victim as determined by the County, in the exercise of professional judgment.
- c. Designated individuals within each County facility, in accordance with the facility's operating policies, will make the required reports. All reports that identify individual patients/clients/residents will be tracked for inclusion in an accounting of disclosures. (See Policy HHSA-L-3, Accounting of Disclosures of Protected Health Information.)

**4. Uses and Disclosures for Health Oversight Activities**

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 6 of 16**  
**DATE: July 27, 2007**

---

- a. The County may disclose PHI to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:
  - i. The health care system;
  - ii. Government benefit programs for which PHI is relevant to beneficiary eligibility;
  - iii. Entities subject to government regulatory programs for which PHI is necessary for determining compliance with program standards; or
  - iv. Entities subject to civil rights laws for which PHI is necessary for determining compliance.
- b. For the purpose of the disclosures permitted by this Section 4, a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:
  - i. The receipt of health care;
  - ii. A claim for public benefits related to health; or
  - iii. Qualification for, or receipt of, public benefits or services when an individual's health is integral to the claim for public benefits or services.
- c. Notwithstanding the limitations on the disclosures set forth in subsection (b) of this Section 4, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of paragraph (d) of this section.
- d. If the County is also acting in the capacity of a health oversight agency, the County may use PHI for health oversight activities as otherwise permitted by this Section 4.

**5. Disclosures for Judicial and Administrative Proceedings**

The County may disclose PHI in the course of any judicial or administrative proceeding:

- a. In response to an order of a court or administrative tribunal, provided that the County discloses only the PHI expressly authorized by such order; or
- b. In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 7 of 16**  
**DATE: July 27, 2007**

---

- i. The County receives satisfactory assurance, as described in this section, from the party seeking the information that reasonable efforts have been made by that party to ensure that the individual whose PHI has been requested has been given notice of the request;
- ii. The County receives satisfactory assurance, as described in this section, from the party seeking the information that reasonable efforts have been made by the party to secure a "qualified protective order" that meets the requirements set forth in this section; or
- iii. The County may disclose PHI without receiving satisfactory assurance, if the County makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of satisfactory assurances as described in this section.

**c. Satisfactory Assurances**

- i. The County will have received satisfactory assurances from the party seeking PHI if the covered entity receives from the party a written statement and accompanying documentation demonstrating that:
  - The party requesting the information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);
  - The notice included sufficient information about the litigation or proceeding in which the PHI is requested to permit the individual to raise an objection to the court or administrative tribunal; and
  - The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:
    - o No objections were filed; or
    - o All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.
  - A subpoena that complies with the Notice to Consumer requirements set forth in California Code of Civil Procedure section 1985.3 or any similar federal or state statute or rule of procedure shall meet the satisfactory assurances requirement of this section.
- ii. The County will have received satisfactory assurances from a party seeking PHI, if the County received from such party a written statement and accompanying documentation demonstrating that:
  - The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or
  - The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal. The term "qualified protective order" means for

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 8 of 16**  
**DATE: July 27, 2007**

---

purposes of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

- o Prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding for which such information was requested; and
  - o Requires the return to the County the PHI or the destruction of the PHI (including all copies made) at the end of the litigation or proceeding.
- The provisions of this section do not supersede other uses or disclosures for which an authorization or opportunity to agree or object is not required.

**6. Disclosures for Law Enforcement Purposes**

The County may disclose PHI for a law enforcement purpose to a law enforcement official as follows:

- a. Pursuant to Process and as Otherwise Required by Law - The County may disclose PHI:
  - i. As required by law, including laws that require the reporting of certain types of wounds or other physical injuries, except for laws relating to public health activities and reports of abuse, neglect or domestic violence (see this policy and procedure for specific procedures relating to these disclosures);
  - ii. In compliance with and as limited by the relevant requirements of:
    - A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
    - A grand jury subpoena; or
    - An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:
      - o The information sought is relevant and material to a legitimate law enforcement inquiry;
      - o The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
      - o De-identified information could not reasonably be used.
- b. Limited Information for Identification and Location Purposes: Except for disclosures required by law and as otherwise permitted by section, the County may disclose PHI in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:



**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 9 of 16**  
**DATE: July 27, 2007**

---

- i. The County only discloses the following information:
    - Name and address;
    - Date and place of birth;
    - Social security number;
    - ABO blood type and rh factor;
    - Type of injury;
    - Date and time of treatment;
    - Date and time of death, if applicable; and
    - A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.
  - ii. Except as permitted by this section, the County may not disclose for the purposes of identification or location under this section any PHI related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.
- c. Victims of a Crime: Except for disclosures required by law and as otherwise permitted by this section, the County may disclose PHI in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures relating to public health activities and reports of abuse, neglect or domestic violence (see this policy and procedure for specific procedures relating to these disclosures), if:
- i. The individual agrees to the disclosure; or
  - ii. The County is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:
    - The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;
    - The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and
    - The disclosure is in the best interests of the individual as determined by the County, in the exercise of professional judgment.
- d. Decedents: The County may disclose PHI about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the County has a suspicion that such death may have resulted from criminal conduct.

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 10 of 16**  
**DATE: July 27, 2007**

---

- e. Crime on Premises. The County may disclose to a law enforcement official PHI that the County believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the County.
- f. Reporting Crime in Emergencies.
  - i. If the County provides emergency health care in response to a medical emergency, other than an emergency on the premises of a component of the County that is a health care provider providing health care that includes the type of care related to the emergency, the County may disclose PHI to a law enforcement official if such disclosure appears necessary to alert law enforcement to:
    - The commission and nature of a crime;
    - The location of such crime or of the victim(s) of such crime; and
    - The identity, description, and location of the perpetrator of such crime.
  - ii. If the covered component of the County that is a health care provider believes that the medical emergency described in this section on reporting crime in emergencies is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, this section on reporting crime in emergencies does not apply and the procedures for reporting abuse, neglect or domestic violence in this policy and procedure should be followed.

**7. Uses and Disclosures About Decedents**

- a. Coroners and Medical Examiners: The County may disclose PHI to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. Where the County also performs the duties of a coroner or medical examiner, it may use PHI for the purposes described in this paragraph.
- b. Funeral Directors: The County may disclose PHI to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, the County may disclose the PHI prior to, and in reasonable anticipation of, the individual's death.

**8. Uses and Disclosures for Cadaveric Organ, Eye or Tissue Donation Purposes**

The County may use or disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

**9. Uses and Disclosures for Research Purposes**

**County Of San Diego  
Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13  
PAGE: 11 of 16  
DATE: July 27, 2007**

---

In the course of conducting research, researchers may obtain, create, use, and/or disclose individually identifiable health information. Under the Privacy Rule, covered components of the County are permitted to use and disclose PHI for research with individual authorization, or without individual authorization under limited circumstances as set forth in the Privacy Rule.

- a. *Research uses and disclosure with individual authorization.* The County may use or disclose PHI for research purposes when a research participant authorizes the use or disclosure of individually identifiable health information. When specific authorization has been obtained, documentation of an Institutional Review Board (IRB) Waiver of Authorization is not required. (See Policy HHSA-L-9, Authorizations for Use and Disclosure of Protected Health Information.)
- b. *Permitted uses and disclosures without authorization.* A covered component of the County may use or disclose PHI for research, regardless of the source of funding of the research, provided that:
  - i. *There is Board approval of a waiver of authorization.* The County will obtain documentation that an alteration to or waiver, in whole or in part, of the individual authorization for use or disclosure of PHI has been approved by either:
    - An IRB established in accordance with state and federal law.
    - A privacy board that:
      - o Has members with varying backgrounds and appropriate professional competency as necessary to review the effect of the research protocol on the individual's privacy rights and related interests;
      - o Includes at least one member who is not affiliated with the County, not affiliated with any entity conducting or sponsoring the research, and not related to any person who is affiliated with any of such entities; and
      - o Does not have any member participating in a review of any project in which the member has a conflict of interest.
  - ii. *Reviews preparatory to research.* The covered components of the County will obtain from the researcher representations that:
    - Use or disclosure is sought solely to review PHI as necessary to prepare a research protocol or for similar purposes preparatory to research;
    - No PHI is to be removed from the County by the researcher in the course of the review; and
    - The PHI for which use or access is sought is necessary for the research purposes.
  - iii. *Research on PHI of decedents.* The County will obtain from the researcher:

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 12 of 16**  
**DATE: July 27, 2007**

---

- Representation that the use or disclosure sought is solely for research on the PHI of decedents;
  - Documentation, at the request of the covered component, of the death of such individuals; and
  - Representation that the PHI for which use or disclosure is sought is necessary for the research purposes.
- c. *Documentation of waiver approval.* For a use or disclosure to be permitted based on documentation of approval of an alteration or waiver, the documentation must include all of the following:
- i. *Identification and date of action.* A statement identifying the IRB or privacy board and the date on which the alteration or waiver of authorization was approved;
  - ii. *Waiver criteria.* A statement that the IRB or privacy board has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:
    - The use or disclosure of PHI involves no more than a minimal risk to the privacy of individuals, based on, at least, the presence of the following elements;
      - An adequate plan to protect the identifiers from improper use and disclosure;
      - An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and
      - Adequate written assurances that the PHI will not be reused or disclosed to any other person or entity, except as required by law, for authorized oversight of the research study, or for other research for which the use or disclosure of PHI would be otherwise permitted;
    - The research could not practicably be conducted without the waiver or alteration; and
    - The research could not practicably be conducted without access to and use of the PHI.
- d. *PHI needed.* A brief description of the PHI for which use or access has been determined to be necessary by the IRB or privacy board.
- e. *Review and approval procedures.* A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, as follows:

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 13 of 16**  
**DATE: July 27, 2007**

---

- i. An IRB must follow the requirements of the Common Rule, including the normal review procedures.
  - ii. A privacy board must review the proposed research at convened meetings at which a majority of the privacy board members are present, including at least one member who satisfies the criterion stated above, and the alteration or waiver of authorization must be approved by the majority of the privacy board members present at the meeting, unless the privacy board elects to use an expedited review procedure.
  - iii. A privacy board may use an expedited review procedure if the research involves no more than minimal risk to the privacy of the individuals who are the subject of the PHI for which use or disclosure is being sought. If the privacy board elects to use an expedited review procedure, the review and approval of the alteration or waiver of authorization may be carried out by the chair of the privacy board, or by one or more members of the privacy board as designated by the chair.
- f. *Required signature.* The chair or other member, as designated by the chair, of the IRB or the privacy board, as applicable, must sign the documentation of the alteration or waiver of authorization.

**10. Uses and Disclosures to Avert a Serious Threat to Health or Safety**

- a. The County may, consistent with applicable law and standards of ethical conduct that may apply to the type of PHI at issue (e.g. psychotherapy records), use or disclose PHI, if the County, in good faith, believes the use or disclosure:
  - i. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or
  - ii. Is necessary for law enforcement authorities to identify or apprehend an individual:
    - Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or
    - Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody.

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 14 of 16**  
**DATE: July 27, 2007**

---

- b. A use or disclosure under this section may not be made if the County learns of the information:
  - i. In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under this section, or counseling or therapy; or
  - ii. Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy to affect the propensity to commit the criminal conduct that is the basis for the disclosure under this section.
- c. A disclosure made because of a statement by an individual admitting participation in a violent crime that the County reasonably believes may have caused serious physical harm to the victim shall contain only the statement that the individual has admitted participation in a violent crime that the County reasonably believes may have caused serious physical harm to the victim and may only include the disclosure for the following PHI:
  - i. Name and address;
  - ii. Date and place of birth;
  - iii. Social security number;
  - iv. ABO blood type and rh factor;
  - v. Type of injury;
  - vi. Date and time of treatment;
  - vii. Date and time of death, if applicable; and
  - viii. A description of distinguishing physical characteristics.

**11. Uses and Disclosure for Specialized Government Functions**

- a. Military and Veterans Activities.
  - i. Armed Forces personnel: The County may use and disclose the PHI of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the **Federal Register** the following information:
    - Appropriate military command authorities; and
    - The purposes for which the PHI may be used or disclosed.
  - ii. Foreign military personnel: The County may use and disclose the PHI of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the **Federal Register** pursuant to this section.

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 15 of 16**  
**DATE: July 27, 2007**

---

- b. National Security and Intelligence Activities: The County may disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority (e.g., Executive Order 12333).
- c. Protective Services for the President and Others: The County may disclose PHI to authorized federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056, or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or to for the conduct of investigations authorized by 18 U.S.C. 871 and 879.
- d. Correctional Institutions and Other Law Enforcement Custodial Situations:
  - i. The County may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual PHI about such inmate or individual, if the correctional institution or such law enforcement official represents that such PHI is necessary for:
    - The provision of health care to such individuals;
    - The health and safety of such individual or other inmates;
    - The health and safety of the officers or employees of or others at the correctional institution;
    - The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
    - Law enforcement on the premises of the correctional institution; and
    - The administration and maintenance of the safety, security, and good order of the correctional institution.
  - ii. A correctional institution that is subject to the Privacy Rule may use PHI of individuals who are inmates for any purpose for which such PHI may be disclosed. Inclusion of this paragraph within this policy is not an admission that or evidence of whether the County considers any of its correctional institutions to be subject to the Privacy Rule. That determination is documented elsewhere as required by the Privacy Rule.
  - iii. For the purposes of this section, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.
- e. Government Programs Providing Public Benefits
  - i. A health plan that is a government program providing public benefits may disclose PHI relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of

**County Of San Diego**  
**Health and Human Services Agency (HHSA)**

**Chapter: Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

---

**SUBJECT: Uses and Disclosures for Which An  
Authorization or Opportunity to Agree or  
Object Is Not Required**

**NO: HHSA-L-13**  
**PAGE: 16 of 16**  
**DATE: July 27, 2007**

---

eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.

- ii. The County, where it is the government agency administering a government program providing public benefits, may disclose PHI relating to the program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of PHI is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

**12. Disclosures for Workers' Compensation**

The County may disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

**QUESTIONS/INFORMATION:** Privacy Officer of the County of San Diego

**SUNSET DATE:** This policy will be reviewed for continuance by July 27, 2010.

Approved: \_\_\_\_\_



Jean M. Shepard, Director  
Health and Human Services Agency